Chapter 3

Direct Investigation

3.1 Since 1994, The Ombudsman has been empowered, under paragraph (ii) of section 7(1) of the Ordinance, to initiate direct investigation. This gives The Ombudsman a free hand to probe into matters that call for review of administrative systems and procedures or practices, and recommend improvement measures, notwithstanding the absence of complaints. I attach great importance to this function because it enables me to conduct independent review of matters of moment at a macro level and systems with systemic or widespread defect.

3.2 A recent survey conducted by the Census and Statistics Department for our Office showed that not many in the public were aware of this function of my Office (see the section on ***Thematic Household Survey*** in **Chapter 7**). We will publicise this aspect more extensively in future.

Aims and Objects

3.3 Our direct investigations aim to :

(a) follow through systemic problems which investigation of individual complaints cannot solve;

(b) forestall complaints or eliminate problems; and

(c) address fundamental problems believed or suspected to be the underlying cause for complaints.

3.4 With direct investigations, we endeavour to improve the quality of public administration and to promote accountability. This should help Government to appreciate the needs and expectations of a discerning and ever more demanding community.

Selection of Issues

3.5 Selection and monitoring of areas for direct investigation is a rigorous process undertaken by a standing panel chaired by my Deputy. The two Assistant Ombudsmen and our small team for direct investigation take part in these deliberations.

3.6 A direct investigation may be prompted by new or revised Government policies, topical issues or repeated complaints to me on particular matters. Matters for direct investigation are generally :

- of community interest, aspirations or expectations;
- not for the courts or tribunals;
- of macro magnitude or typical concern; and
- not under examination or study by another agency.

Investigation Methodology

3.7 Our Office has a small team dedicated to conducting direct investigations. While the statutory powers are the same for direct investigations and for cases, the former assignments are more comprehensive and invariably cover wider issues. Besides notifying the organisation concerned, we will publicly declare the initiation of a direct investigation and invite views from relevant sectors as well as community at large. This is different from investigation of individual complaints, which is subject to the secrecy code. We will also approach parties that we believe may have comments or information on the subject.

Direct Investigation

3.8 Before we formally launch a direct investigation, we may conduct an assessment on the subject. For this purpose, we collect relevant information publicly available, such as annual reports and homepages, legislation and media reports. We may also seek direct information from the organisation itself. If such preliminary study points to the need for further scrutiny, The Ombudsman will formally notify the head of the organisation before making a public declaration. If the preliminary study shows no significant maladministration, we will inform the organisation and where appropriate prepare a Direct Investigation Assessment Report with observations and suggestions. These reports are placed in our Resource Centre for public reference.

Investigations over the Years

3.9 Since conferment of powers for direct investigation in 1994, this Office has completed 46 direct investigations resulting in 628 recommendations. These investigations are listed at **Annex 6**. We request the organisations concerned to report progress on the implementation of our recommendations in six months and will continue to monitor until the recommendations are implemented.

3.10 Over the recent five years, a total of 23 direct investigations were undertaken :

Fig. 3.1

Direct Investigations in the Recent Five Years

1999/2000	3
2000/01	5
2001/02	4
2002/03	6
2003/04	5

3.11 This year, apart from five direct investigations, my Office completed five direct investigation assessments (see **Fig 3.4**).

Fig. 3.2

Direct Investigation Reports Published

22 May 2003	Enforcement of the Education Ordinance on universal basic education
2 July 2003	Operation of the Integrated Call Centre
14 November 2003	Assistance provided by Home Affairs Department to owners and owners' corporations in managing and maintaining their buildings
18 December 2003	Prevention of abuse of the Comprehensive Social Security Assistance Scheme
4 March 2004	Handling of examination scripts under marking

Fig. 3.3

Direct Investigations in Progress

Declared	Subject
14 November 2003	Enforcement action on unauthorised building works in New Territories exempted houses
14 November 2003	EMB's arrangements for surplus teachers in aided primary schools 2003/04
18 December 2003	Enforcement of the Building Management Ordinance

Fig. 3.4

Direct Investigation Assessments Completed

Completed	Subject
13 June 2003	Arrangements for claims relating to traffic accidents involving Government vehicles
4 September 2003	Monitoring of compliance with licensing conditions for operation of non-franchised buses (residents' service)
19 September 2003	System of monitoring the operation of road maintenance vehicles
24 October 2003	Administrative arrangements for temporary closure of public swimming pools
18 December 2003	Mechanism for handling complaints on TV advertisements

3.12 In general, the organisations concerned are quite cooperative during the investigation process. After all, our aim is to help them improve their systems, procedures and practices for better administration.